

Usual notices were given to the parties, the management did not appear inspite of service. The case was proceeded ex-parte and after recording the evidence of the workers the award was made on 10th May, 1974 entitling her to reinstatement with full back wages. Feeling aggrieved the management filed an application for setting aside the ex-parte award with the allegations that there was no proper service of the management and non-participation in the proceedings was not intentional. The worker opposed this application. However, an amicable settlement was arrived at and the ex-parte award has been set aside, and the reference has been restored.

Statements of the authorised representatives of the parties have been recorded. According to the statement made on behalf of the management this worker had in fact absented from duty without proper authorisation and had not reported for work inspite of letters written to her and her name had, therefore, to be struck off the rolls. She, however, raised a dispute but a settlement was arrived at on 23rd July, 1973 Exhibit M-1 which is signed by her and her husband Shri Ram Sarup. According to the settlement a sum of Rs. 125 was paid to her, full and final settlement of her claims,—vide voucher Exhibit M-2 in addition to the wages for the days she worked,—vide voucher Exhibit M-3. By way of good-will the management has paid a further sum of Rs. 200 to the worker through her authorised representative Shri Krishan Lal and this amount has been paid today before the Court,—vide receipt Exhibit M-4.

In view of the above, no further proceedings are called for in the case as the worker has received the aforesaid amounts, in full and final settlement of her entire claims against the management including her right of reinstatement or re-employment. In the circumstances, a no dispute award is given in terms of the above settlement arrived at between the parties. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 17th July, 1974

No. 721, Dated 19th July, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 17th July, 1974

No. 6918-4L-74/25680.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Chhagan Lal Konkreet Tanks Manufacturing Co., Kadipur Road, Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 13 of 1973

between

SHRI JEET RAM, WORKMAN AND THE MANAGEMENT OF M/S CHHAGAN LAL KONKREET
TANKS MANUFACTURING CO. ; KADIPUR ROAD, GURGAON

Present.

Shri Jeet Ram concerned workman with his authorised representative Shri Sardha Nand.

Shri Chagan Lal for the management.

AWARD

Shri Jeet Ram concerned workman was in the service of M/s Chhagan Lal Konkreet Tanks Manufacturing Co. ; Kadipur Road, Gurgaon. His services were allegedly terminated by the management without any notice or charge sheet. Feeling aggrieved, he raised a dispute which was referred for adjudication to this Tribunal vide order No. ID/GG/133-A-72/609, dated 5th January, 1973 of the Governor of Haryana, in exercise of the powers

conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 with the following term of reference :-

"Whether the termination of services of Shri Jeet Ram was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference usual notices were given to the parties and they put in their respective pleadings. The management resisted a claim of Shri Jeet Ram for reinstatement and payment of back dues as earlier raised through the demand notice, the subject matter of the present reference, on two grounds, firstly, that as a matter of fact he had himself abandoned service and not reported for duty inspite of notice and, secondly, that the demand, the subject matter of the reference, had not been first raised on the management and rejected by it and, therefore, no industrial dispute existed between the parties within the meaning of that law. In his rejoinder the workman controverted the above pleadings of the workman. The following three issues arose for determination in the case.

- (1) Whether the demand, the subject matter of the present dispute, had first been raised on the management and rejected by it before the matter was taken up for conciliation ? If not, with what effect ? (on workmen).
- (2) Whether Shri Jeet Ram concerned workman had himself abandoned service as alleged by the management ? (on management).
- (3) Whether the termination of services of Shri Jeet Ram was justified and in order ? If not, to what relief is he entitled ?

The workman has made his own statement on 21st May, 1973 and the case was adjourned to 23rd July, 1973 for the evidence of the management. Since none appeared on behalf of the management when the case was taken up in the earlier hours of the day and an *ex parte* order was made. Shri Chhagan Lal, Proprietor of the firm, however, appeared towards the close of the day and submitted an application for setting aside the *ex parte* proceedings. After hearing both the parties the *ex parte* proceedings were set aside subject to the payment of Rs 50 as costs. The costs were accepted by the workman concerned and thereafter the evidence of the management was recorded.

The management has examined four witnesses including Shri Gopi Chand, Postman, M.W. 1, Shri Amrit Lal a workman in the said concern, M.W. 2, Shri O. P. Sharma, Accountant-cum-Manager of M/s Asia Rubber Mills, Gurgaon, M.W. 3 and Shri Chhagan Lal, Proprietor, M.W. 4. The documentary evidence relied upon by the management consists of A. D. receipt No. 838, dated 31st January, 1973, Ex. M.W. 4/1, copy of the letter, dated 22nd December, 1972 written to the Labour Commissioner, Ex. M.W. 4/2, Postal receipt, Ex. M.W. 4/3, A. D. receipt, Ex. M.W. 4/4, letter of the same date written to Shri Jeet Ram, workman concerned, Ex. M.W. 4/5, Postal receipt Ex. M.W. 4/6, A. D. receipt, Ex. M.W. 4/7, another registered letter written to him out received back as refused, Ex. M.W. 4/8 and statement showing appointment of Shri Jeet Ram with M/s Asia Rubber Mills, Gurgaon, M.W. 3/1, another statement of the same concern, Ex. M.W. 3/2, letter dated 31st January, 1973 written by the management to Shri Jeet Ram, Ex. M.W. 3/3, A. D. Receipt, Ex. M.W. 3/4.

After the close of the evidence by the management, oral as well as documentary as discussed above, Shri Jeet Ram, workman has again come into the witness box and made his own statement without producing any other evidence.

Arguments have been addressed on both sides and I have given a very careful consideration to the facts on record.

As already pointed out, the plea of the management is that, as a matter of fact, this workman had left service of his own accord by remaining absent from duty without any proper authorisation and he had not joined duty inspite of two letters written to him. This was denied by the workman in his rejoinder. The burden was, therefore, on the management to establish this fact by bringing on record cogent and convincing evidence and after very carefully examining the entire evidence produced on both sides, oral as well as documentary, I am convinced that the management has fully discharged this burden. The management had written not only to the workman concerned but also to the Labour Commissioner by registered post that this workman who had absented himself from duty without any leave or permission should be directed to join his duty. Copies of the letters and A. D. receipts have been brought on record and duly proved as discussed above. It has been stated by the workman that he had sent a reply to the letter of the management but no such letter has been produced in the case. In the conciliation proceedings also the management had taken the same plea as is clear from the perusal of the report of the Conciliation Officer shown to me during the course of arguments.

So, all these facts taken together go a long way to establish that this workman had, in fact abandoned the service of the present management of his own accord and his services were not terminated by the management by way of punishment or otherwise. This is further clear from the fact that he had joined service with another concern known as M/s Asia Rubber Mills, Railway Road, Gurgaon,—vide statements, Ex. M.W. 3/1 and Ex. M.W. 3/2 produced by the Accountant-cum-Manager of that concern. Even after this fact had been brought to the notice of the present management, an opportunity had been given to Shri Jeet Ram,—vide letter, dated

31st January, 1971, Ex. MW. 3/3 to report for duty but he did not send any reply to this letter sent to him under registered post nor did he report for duty. In the circumstances and taking into consideration the over whelming evidence produced by the management oral, as well as documentary, the workman concerned can not be believed to say that his services had been terminated by the management.

That disposes of issue No. 2 and incidently issue No. 3 also because the management had done nothing to despend with the services of this workman for which it could be called upon to justify the action. The workman having himself abandoned service no industrial dispute existed between the parties which could validly be referred for adjudication to this Court.

Even if it be assumed for the sake of argument that the workman had not left service of his own accord and his services had been terminated by the management, the question which is of vital importance and arises for determination in the case is whether the dispute had been properly raised so as to constitute an industrial dispute as defined under section 2(k) of the Industrial Disputes Act, 1947. The law is well settled on the point. According to the rule of law laid down by Hon'ble the Supreme Court in the Sindhu Re-settlement Corporation case which had been followed by the Delhi High Court in the Fedders Loyeds case, the demand has to be first raised on the management and rejected by it before taking up the matter for conciliation. The mere communication of the demand notice by the Conciliation Officer to the management is not sufficient to constitute an industrial dispute within the meaning of the law. The burden was on the workman to establish this fact covered by issue No. 1. He has, however, utterly failed to discharge this burden. It has been stated that he had approached the management for reinstatement and had also given a demand notice in writing. No such demand notice has been produced and there is no corroboration of his oral deposition that he had approached the management for taking him back on duty. The vague and oral ascertainment made by him unsupported by any other reliable evidence is not sufficient to discharge the burden which lay heavily upon him. No question was put to Shri Chagan Lal, Proprietor in cross-examination in this connection when he came into witness box as M.W. 4. My attention has been drawn to the demand notice which forms part of the present reference. It purports to have been given by one Shri Chote Lal on behalf of Shri Jeet Ram, workman concerned. Strangely enough it does not bear his signatures. Moreover, there is no proof, postal or A.D. receipt, etc., or acknowledgement of the receipt of this demand notice direct by the management in any other manner. The fact, therefore, remains that the demand, the subject matter of the present reference, was not first raised by the workman on the management and rejected by it before the matter was taken up for reference and as such it did not constitute an industrial dispute within the meaning of the case law referred to above, which could validly be referred for adjudication to this Tribunal.

That disposes of the entire case in all the three issues involved which are decided against the workman and in favour of the management and it is held that he is not entitled to any relief by way of reinstatement or payment of any back dues. The award is made accordingly but without any order as to costs.

The 15th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 680, dated 16th July, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, are required under section 15 of the Industrial Disputes Act, 1947.

The 5th July, 1974

O. P. S. HARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6914-4L-74/25682.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Auto Ignition (P) Ltd., 5D/8E, Railway Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 69 of 1972

between

SHRI SURJIT SINGH, WORKMAN AND THE MANAGEMENT OF M/S AUTO IGNITION,
(P) LTD., 5-D/8-E, RAILWAY ROAD, FARIDABAD

Present :

Shri Ashok Kumar, for the workman.
Shri R. C. Sharma, for the management.

AWARD

Shri Surjit Singh, workman concerned was in the service of M/s Auto Ignition Co Ltd 5-D/8-E, Railway Road, Faridabad. His services were allegedly terminated by the management with effect from 1st June, 1972 and without any reasonable ground. Feeling aggrieved, he raised a dispute which was referred for adjudication to this Tribunal by order No. ID/FD/72 40659 dated 22nd November, 1972 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following terms of reference:—

Whether the termination of services of Surjit Singh was justified and in order? If not, to what relief is he entitled?

The parties put in their respective pleadings giving rise to the following issues:—

- (1) Whether the demand the subject-matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what relief? (On workman)
- (2) Whether Shri Surjit Singh concerned workman had absented himself from duty without any proper authorisation from 1st May, 1972 onwards resulting into automatic termination of his service?
- (3) Whether the termination of services of Shri Surjit Singh was justified and in order? If not, to what relief is he entitled?

Evidence has been led on both sides but it is not necessary to go into the merits of the case as during the course of arguments a suggestion for amicable settlement was made and the parties have settled the dispute. The management has agreed to pay Rs 500 to the workman *ex-gratia* within 15 days from today in full and final settlement of his entire claims, and he has foregone his right of reinstatement or re-employment.

The award is, therefore, made in terms of the above settlement amicably arrived at between the parties. The management shall pay Rs 500/- to the workman within 15 days, as agreed, and on receipt of this amount he will not be entitled to any other relief by way of re-instatement, re-employment or payment of any other dues. In the circumstances, there shall be no order as to costs.

Dated 18th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 701, dated 19th July, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 18th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6916-4L-74/25584.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Mahabir Metal Works, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 183 of 1973

between

SHRI BINDA PANDEY, WORKMAN AND THE MANAGEMENT OF M/S MAHABIR
METAL WORKS, 15/2, MATHURA ROAD, FARIDABAD.

Present.—

Shri Roshan Lal Sharma, for the workman.

Shri H. L. Kapoor, for the management.

AWARD

Shri Binda Pandey, workman concerned was in the service of M/s. Mahabir Metal Works, 1572—Mathura Road, Faridabad from 1st June, 1972. His services were allegedly terminated by the management on 17th April, 1973 without any reasonable ground. Feeling aggrieved he raised a dispute which was referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 with the following term of reference:—

Whether the termination of services of Shri Binda Pandey is justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties. The management has pleaded settlement of the dispute with the workman and a memorandum of settlement dated 22nd April, 1974 signed by him and witnessed by two other workmen Sarvshri Raj Pal Sharma and Sudarshan Kumar has also been filed. The workman concerned was required to admit or deny the aforesaid settlement. His authorised representative Shri Roshan Lal Sharma through whom the demand notice leading to the present reference was given has stated that he has written several letters to the workman but there is no response from him and, in the circumstances, he has no instructions to refute the plea of settlement raised on behalf of the management.

In view of the above no further proceedings are called for in the case. A perusal of the memorandum of settlement referred to above would show that the workman concerned has received payment of Rs 250 from the management in full and final settlement of his entire claims and given up his right of reinstatement or re-employment. A no dispute award is accordingly made in terms of the above settlement amicably arrived at between the parties. There shall be no order as to costs.

Dated 16th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 682, dated 16th July, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 16th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6912-4L-74/25686.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Luck Auto (I) Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 123 of 1973

between

SHRI KESHER SINGH RAVAT, WORKMAN AND THE MANAGEMENT OF M/S LUCK AUTO
INDIA LTD., FARIDABAD

Present.—

Shri Keshar Singh Ravat, concerned workman along with Shri R. N. Roy.

Shri N. V. Nair, Personnel Officer, for the management.

AWARD

The following dispute between the management of M/s-Luck Auto India Ltd., Faridabad and its workman Shri Keshar Singh Ravat was referred for adjudication to this Tribunal by order No. ID/FD/73/317/32409, dated 12th July, 1973 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Keshar Singh Ravat is justified, and in order? If not, to what relief is he entitled?

Usual notices were given to the parties and they put in their pleadings giving rise to the following two issues :—

- (1) Whether the present dispute is not an industrial dispute as defined under section 2-K of the Industrial Disputes Act, 1947 (on management) ?
- (2) Whether the termination of services of Shri Kesher Singh Rava is justified and in order ? If not, to what relief is he entitled ?

The case was fixed for the evidence of the parties. No evidence is, however, necessary as the parties have arrived at an amicable settlement. Their statements have been recorded.

According to the statement of Shri V. N. Nair, Personnel Officer of the company, Shri Kesher Singh workman concerned had approached the management for the settlement of the disputes and the settlement has been arrived. The management has agreed to pay to him Rs 1,500 within three days, in full and final settlement of his entire claims including the right of reinstatement or re-employment.

In view of the above, no further proceedings are called for in the case and the award is made in terms of the above settlement. The management shall pay Rs 1,500 to Shri Kesher Singh workman concerned within three days, as agreed and on receipt of this amount, in full and final settlement of his entire claims against the management, he shall have no right of reinstatement or re-employment. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

Dated the 18th July, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 702, dated 19th July, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department., Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated the 18th July, 1974.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6917-4L-74/25678.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Vikas Agro Engineering (P) Ltd., Bahadurgarh (Rohtak).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 49 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/S VIKAS AGRO ENGINEERING (P)
LTD., BAHADURGARH (ROHTAK)

Present :

Shri Om Parkash one of the concerned workmen and Shri Onkar Parshad authorised representative.

Shri Suraj Pal Singh for the management.

AWARD

The workmen of M/s Vikas Agro Engineering (P) Ltd., Bahadurgarh (Rohtak) had raised certain demands which were not accepted by the management. This gave rise to an industrial dispute and on receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d)

of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this Tribunal,—vide Order No. ID/RK/176-B-72/32267, dated 22nd August, 1972 with the following terms of reference :—

- (1) Whether the termination of services of Shri Om Parkash Sharma is justified and in order ? If not, to what relief is he entitled ?
- (2) Whether incremental grades and scales of pay of the workers of the factory should be fixed ? If so, with what details ?
- (3) Whether the workers should be granted bonus for the year 1970-71 ? If so, with what details ?

The parties put in their respective pleadings. The workmen reiterated their demands as earlier raised through the demand notice leading to the present reference. The management contested their demand.

From the pleadings of the parties the issues which arose for determination were precisely the same as per the terms of reference stated above.

It is, however, not necessary to go into the merits of the case as the parties have arrived at an amicable settlement, as per the statement of Shri Suraj Pal Singh, son of the Managing Director of the respondent concern and Shri Onkar Parshad the authorised representative of the workmen. According to the settlement arrived between the parties, Shri Om Parkash Sharma workman concerned has received payment of Rs 1,000 including Rs 100 paid to him earlier in advance as per receipt Ex. M-1 and he has given up his right of reinstatement or re-employment. It has been stated that there is only one more worker Shri Jai Bhagwan in the factory and the management has agreed to pay to him the minimum bonus at the rate of 8.33 per cent for the year 1970-71. Since there are no other workers in the factory the question of fixation of grades and scales of pay of the workmen does not arise and the demand covered by item No. 2 of the reference has, therefore, not been pressed.

The award is, therefore, made in terms of the above settlement arrived at between the parties. Shri Om Parkash Sharma one of the workers concerned having given up his right of reinstatement or re-employment and received payment of Rs 1,000, in full and final settlement of his entire claims against the management, he is not entitled to any other relief. The management shall pay bonus at 8.33 per cent to the remaining workman Shri Jai Bhagwan within one month. The demand for fixation of grades and scales of pay shall, in the circumstances, stand rejected. There shall be no order as to costs.

Dated the 16th July, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 681, dated the 16th July, 1974

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 16th July, 1974

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

S. N. BHANOT,
Commissioner for Labour and Employment and
Secretary to Government, Haryana.